

## Message Text

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TAGS: EAIR, IT

SUBJECT: CIVAIR - US-ITALY NEGOTIATIONS

SUMMARY. US AND ITALIAN DELS DISCUSSED SEVERAL IMMEDIATE CIVAIR PROBLEMS WITHOUT REACHING AGREEMENT. AS CONCESSION TOWARD PRACTICAL SOLUTION ON CARGO FLIGHT PROBLEMS, USDEL OFFERED BOSTON-CHICAGO COTERMINALIZATION, BUT SOLUTION FOUNDERED WITH ITALIAN REFUSAL TO APPROVE 747-F UNDER ANY CIRCUMSTANCES. ITALIANS REITERATED CONCERN OVER IMBALANCE OF BENEFITS, ALLEGING ALITALIA'S PLIGHT DUE TO EXCESS CAPACITY OFFERED BY US AIRLINES, AND REITERATED DESIRE MAKE BASIC CHANGES IN BILATERAL AGREEMENT. THERE WAS NO MENTION OF MEETING AGAIN AT ANY SPECIFIC TIME. END SUMMARY.

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1. US AND ITALIAN DELS MET IN WASHINGTON JANUARY 10-14 TO DISCUSS AT GOI REQUEST 1976-77 WINTER CAPACITY OFFERED BY US AIRLINES, CURRENT "COMMISSION RATE WAR" BETWEEN US AIRLINES AND ALITALIA, AND REVISION OF AIR TRANSPORT AGREEMENT. USG RAISED AS IMMEDIATE ISSUES: USE OF 747-F, CHANGE OF GAUGE OUTSIDE ITALY, CARGO FLIGHTS OPERATING IN

ONE DIRECTION FROM ITALY, AND DE FACTO DISCRIMINATORY USER CHARGES AT ITALIAN AIRPORTS. SEPARATE DISCUSSIONS WERE HELD ON CHARTER FLIGHT MATTERS.

2. BOTH DELS REITERATED OFT-REPEATED INTERPRETATIONS OF AIR TRANSPORT AGREEMENT WHICH FROM RESPECTIVE ITALIAN AND US POINTS OF VIEW PRECLUDED OR PERMITTED USE OF 747 FREIGHTER, CHANGE OF GAUGE, AND ONE-WAY ALL-CARGO FLIGHTS. MAJOR PORTION OF TALKS WAS SPENT ON THE QUESTIONS OF BOSTON-CHICAGO COTERMINALIZATION FOR ALITALIA AND USE OF 747-F, CHANGE OF GAUGE, AND ONE-WAY FLIGHTS. RE LATTER, ITALIAN DEL ARGUED VARIOUSLY THAT, BECAUSE ROUTES WERE DESCRIBED AS ORIGINATING IN HOME COUNTRY OF AIRLINE, FLIGHTS COULD NOT BE ORIGINATED IN OTHER COUNTRY; THAT THE PHRASE "IN BOTH DIRECTIONS" MEANT A FLIGHT COULD NOT OPERATE IN ONE DIRECTION WITHOUT OPERATING IN THE OTHER; AND THAT FERRY FLIGHTS COULD NOT BE OPERATED EXCEPT IN ACCORD ROUTE SCHEDULE. USDEL RESPONDED THAT EVEN ON ROUND-TRIP FLIGHTS AIRLINES "ORIGINATED" FLIGHTS IN OTHER COUNTRY; THAT "BOTH" COULD NOT HAVE THE MEANING ASCRIBED TO IT (ITALIANS SUGGESTED THAT, IN THIS CASE, WORD SHOULD BE "EITHER", WHICH WE POINTED OUT MIGHT MEAN ONE OR THE OTHER BUT NOT BOTH); THAT ONE-WAY FLIGHTS, PARTICULARLY IN ALL-CARGO, WERE COMMON; THAT US AIRLINES HAD BEEN OPERATING ONE-WAY CARGO FLIGHTS IN ITALY FOR MANY YEARS WITHOUT OBJECTION; THAT FERRY FLIGHTS WERE NOT SUBJECT ROUTE SCHEDULE BECAUSE THEY CARRIED NO TRAFFIC; AND THAT ARTICLE 2 OF AGREEMENT GRANTED RIGHTS OF TRANSIT AND STOPS FOR NON-TRAFFIC PURPOSES ON BASIS OF WHICH FERRY FLIGHTS LIMITED OFFICIAL USE

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SHOULD BE AUTHORIZED. TO POINT OUT ABSURDITY OF ITALIAN POSITION WE ASKED WHETHER IT WOULD BE ACCEPTABLE TO SHOW AN ALL-CARGO SCHEDULE AS FOLLOWS: FLIGHT 100, NYC-FRANKFURT-ROME, WITH FOOTNOTE SHOWING NO CARGO DISCHARGED AT ROME; FLIGHT 101, ROME-NYC. ITALIANS SAID THIS WAS ACCEPTABLE. IN EFFECT, BY ADOPTING A SUBTERFUGE, US AIRLINES MIGHT BE ABLE CONTINUE TO DO PRECISELY WHAT THEY HAVE BEEN DOING. ITALIAN DEL WAS NOT ABOUT TO CHANGE ITS POSITION, HOWEVER, AND REAFFIRMED THAT POSITION WAS FINAL. IT SUGGESTED US TAKE ISSUE TO ARBITRATION, TO WHICH WE SAID OUR EXPERIENCE IN ARBITRATION WITH ITALY PROVIDED LITTLE COMFORT (A REFERENCE TO ARBITRAL DECISION IN 1960'S SUPPORTING US VIEW THAT ALL-CARGO FLIGHTS WERE PERMISSIBLE WHICH ITALY REFUSED ACCEPT).

3. IN ATTEMPT FIND ACCOMMODATION, USDEL OFFERED GRANT BOSTON-CHICAGO COTERMINALIZATION FOR A PROVISIONAL OR TEMPORARY PERIOD WITH A REASONABLE FREQUENCY LIMITATION IN RETURN FOR ADDITION OF NETHERLANDS AND BELGIUM IN US ROUTE

SCHEDULE FOR ALL-CARGO FLIGHTS ONLY. WE WOULD SEPARATELY EXPECT ACCEPTANCE BY ITALY OF USE 747-F, CHANGE OF GAUGE, AND ONE-WAY FLIGHTS. ITALIAN DEL SAID IT WOULD ACCEPT ROUTE PACKAGE (BUT WITH BLIND SECTORS AT BELGIUM AND NETHERLANDS), BUT ONLY ALLOW CHANGE OF GAUGE.

ALTERNATIVELY, US COULD HAVE ONE-WAY FLIGHTS IN LIEU OF BELGIUM AND NETHERLANDS BLIND SECTORS. USDEL SAID ANY PACKAGE WOULD HAVE TO INCLUDE ALL THREE INTERPRETATIVE ISSUES. WE COUNTERPROPOSED BOSTON-CHICAGO AND SOME CAPACITY LIMITATION ON US ALL-CARGO FLIGHTS WITHIN WHICH, HOWEVER, CHANGE OF GAUGE, ONE-WAY FLIGHTS, AND USE OF 747-F COULD TAKE PLACE. BOTH SIDES OF DEAL COULD BE FOR TEMPORARY PERIOD (E.G., ONE YEAR), THUS NOT COMMITTING ITALY TO 747-F, ETC., INDEFINITELY. ITALY AGAIN REJECTED 747-F, BUT PROPOSED DEAL UNDER WHICH US AIRLINES COULD USE 747-F IN 1979 (OR POSSIBLY LATE 1978) PROVIDED ALITALIA LIMITED OFFICIAL USE

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HAD ACQUIRED WIDE-BODIED FREIGHTER AIRCRAFT BY THEN AND PROVIDED US AND ITALY HAD CONCLUDED OVERALL NEW CAPACITY REGIME BY THEN. WE SAID THAT THESE CONDITIONS EFFECTIVELY NEGATED THE IMPLIED GUARANTEE. IN END, WE ASKED IF THERE WAS ANY PRICE OR LIMITATION UNDER WHICH 747-F COULD BE ACCEPTED NOW. ANSWER WAS "NO."

4. ITALIAN DEL REITERATED ITS REQUESTS TO AMEND BILATERAL AGREEMENT TO PROVIDE FOR SINGLE DESIGNATION OF AIRLINES ON EACH ROUTE, A NEW ROUTE SCHEDULE WHICH WOULD SEVERELY LIMIT US ROUTE RIGHTS (PARTICULARLY BEYOND ITALY), CAPACITY CONTROL, AND NEW AIR FARE PROCEDURES. USUAL ARGUMENTS WERE ADVANCED FOR THESE CHANGES AND USDEL REPLIED IN BROAD POLICY TERMS. ITALIAN DEL CHAIRMAN CLEARLY DID NOT EXPECT ANY NEGOTIATION TO TAKE PLACE AT THIS TIME, AND AT CLOSE OF CONSULTATIONS SAID PRIVATELY THAT THE EXCHANGE OF BROAD VIEWS WAS USEFUL TO HIM.

5. RE "COMMISSION RATE WAR", ITALIAN DEL ASSERTED PAN AM HAD STARTED OFFERING ABNORMALLY HIGH COMMISSION TO AGENTS TO WHICH ALITALIA HAD RESPONDED LEADING TO FURTHER ESCALATION AND CURRENT COMMISSION OF 23 PERCENT. ITALIAN DEL ASKED IF USG COULD USE INFLUENCE ON US AIRLINES TO REDUCE COMMISSIONS TO "NORMAL IATA LEVEL" OF 8-10 PERCENT. USDEL SAID THAT US AIRLINES FELT IT WAS ALITALIA WHICH HAD ESCALATED RATES, THAT IN VIEW CURRENT CAB PROCEEDING RE COMMISSION RATES IT COULD NOT INTERVENE, AND THAT THIS WAS NOT A MATTER IN WHICH USG FELT IT WAS APPROPRIATE TO INTERVENE.

6. ITALIAN DEL AGAIN SAID THERE WAS NO DE JURE DISCRIMIN-

ATION ON AIRPORT USER CHARGES BUT ACKNOWLEDGED DE FACTO  
DISCRIMINATION EXISTED SINCE ALITALIA HAS ASKED ADMINIS-  
TRATIVE TRIBUNAL (TAR) FOR OPINION ON WHETHER CIVILAVIA'S  
JUDGMENT THAT ALITALIA PAY USER CHARGES IS VALID. TAR  
DECISION REPORTEDLY EXPECTED JANUARY 31 AND USDEL INDI-  
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CATED USG WOULD WAIT FOR RESULT BUT WARNED USG COULD NOT  
DELAY MUCH LONGER IN IMPLEMENTING US LAW BY IMPOSING

COMPENSATORY CHARGES ON ALITALIA FOR NON-PAYMENT OF  
LANDING FEES.

7. ITALIAN DEL WAS UNWILLING DISCUSS CHARTER ISSUES  
FORMALLY. THEREFORE, A WORKING GROUP WAS CONSTITUTED IN  
WHICH US REPS EXPLAINED US CHARTER RULES, PROVIDED DATA  
ON NATURE US-ITALY CHARTER MARKET, AND SOUGHT PERSUADE  
CIVILAVIA REPS THAT THEY SHOULD PROMULGATE LIBERAL REGULA-  
TIONS. DISCUSSION WAS USEFUL BUT ITALIAN REPS WERE NON-  
COMMITTAL.

8. MEMO OF CONSULTATIONS SENT SEPTTEL. DEPT WILL REPORT  
MORE FULLY IN SEPTTELS ON USER CHARGE QUESTIONS AND ONE-  
WAY FLIGHTS. RE LATTER, ITALIANS SAID THAT, NOW THAT  
CONSULTATIONS HAD BEEN HELD AND IN ABSENCE OF AGREEMENT,  
IT WOULD DELAY NO LONGER IN ENFORCING ITS POSITION THAT  
ONE-WAY FLIGHTS COULD NOT BE OPERATED.

9. COMMENT. AMBASSADOR FARACE CLEARLY HAD PREPARED  
HIMSELF WELL FOR TALKS, WAS REASONED AND CALM THROUGHOUT,  
AND SHOWED AN EVIDENT DESIRE TO FIND SOME PROVISIONAL  
ACCOMMODATION ON PENDING ISSUES IN ORDER TO FORESTALL  
PRESSURES FOR MORE DRASTIC ACTION BY ITALY. AT SAME TIME,  
HOWEVER, IT WAS APPARENT THAT HE WAS UNDER STRONG PRESSURE  
FROM ALITALIA REPS (I.E., LECCESSE) NOT TO CONCEDE ON  
747-F ISSUE UNDER ANY CIRCUMSTANCES. USDEL IN END CON-  
CLUDED THAT, ALTHOUGH US WAS WILLING TO ACCEPT CAPACITY  
LIMITATIONS ON ALL-CARGO FLIGHTS FOR A TEMPORARY PERIOD,  
IT COULD NOT CONCEDE BOSTON-CHICAGO COTERMINALIZATION  
WITHOUT REMOVING OBSTACLES TO 747-F, CHANGE OF GAUGE, AND  
ONE-WAY FLIGHTS, NOT ONLY AS A MATTER OF PRINCIPLE, BUT  
ALSO BECAUSE US AIRLINES NEED ALL THREE TO REMAIN  
COMPETITIVE WITH ALITALIA IN CARGO AREA.  
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## Message Attributes

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